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BEFORE THE DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation

Against:

STEPHEN PROFFITT, M.D.

Certificate # A-22252

Respondent.

File No: 04-92-21007

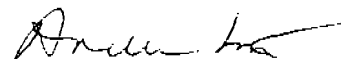
DECISION AND ORDER

The attached Stipulation in Settlement and Decision is hereby adopted by the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California, as its Decision in the above-entitled matter.

This Decision shall become effective on June 15, 1997.

DATED May 16, 1997.

DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA



Anabel Anderson Imbert, M.D.,  
Chair, Panel B

1 DANIEL E. LUNGREN, Attorney General  
of the State of California  
2 SAMUEL K. HAMMOND,  
Deputy Attorney General, State Bar No. 141135  
3 Department of Justice  
110 West A Street, Suite 1100  
4 Post Office Box 85266  
San Diego, California 92186-5266  
5 Telephone: (619) 645-2083  
6 Attorneys for Complainant

7  
8 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation ) NO. 04-92-21007  
Against: )  
12 )  
STEPHEN PROFFITT, M.D. ) STIPULATION IN  
13 P. O. Box 9828 ) SETTLEMENT AND DECISION  
Fountain Valley, CA 92728 )  
14 )  
Physician's and Surgeon's )  
15 No. A 22252 )  
Respondent. )  
16 )

17 In the interest of a prompt and speedy settlement of  
18 this matter, consistent with the public interest and the  
19 responsibility of the Division of medical Quality, Medical Board  
20 of California, Department of Consumer Affairs ("Division") the  
21 parties submit this Stipulation and Decision to the Division for  
22 its approval and adoption as the final disposition of the  
23 Accusation.

24 The parties stipulate the following is true:

25 1. An Accusation, No. 04-92-21007, is currently  
26 pending against Stephen Proffitt, M.D. ("respondent"), before the  
27 Board. The Accusation, together with all other statutorily

1 required documents, was duly served on the respondent on or about  
2 May 2, 1996, and respondent filed his Notice of Defense on or  
3 about June 3, 1996. A copy of Accusation No. 04-92-21007 is  
4 attached as Attachment "A" and incorporated by reference as if  
5 fully set forth.

6           2. At all times relevant herein, respondent has been  
7 licensed by the Medical Board of California under Physician's and  
8 Surgeon's No. A 22252.

9           3. Respondent is represented by counsel Theodore A.  
10 Cohen, Esq. in this matter. Respondent has fully and completely  
11 discussed with his counsel the effects of this stipulation.

12           4. Respondent understands the nature of the charges  
13 alleged in the Accusation and that the charges and allegations  
14 constitute cause for imposing discipline upon his license to  
15 practice. Respondent is fully aware of his right to a hearing on  
16 the charges and allegations contained in said Accusation, his  
17 right to reconsideration, appeal and all other rights accorded  
18 pursuant to the California Business and Professions Code  
19 (hereinafter "Code") and Government Code and freely and  
20 voluntarily waives such rights.

21           5. Respondent admits only that he is guilty of  
22 violating Code section 2234 as defined by Code sections 2234(b)  
23 and 2234(c), in that he failed to properly document the charts of  
24 the patients to indicate complete history and physical findings,  
25 as alleged in paragraphs 5A, 6A, 8A, 9A, 11A, 12A, 14A, 15A, 17A  
26 and 18A of Accusation No. 04-92-21007, and also failed to  
27 completely document the reasons for procedures performed, as

1 alleged in paragraph 5C and 5E of Accusation No. 04-92-21007.  
2 Respondent agrees that he has thereby subjected his license to  
3 discipline, also agrees to the Division's imposition of penalty  
4 as set out in the Order below.

5           6. Admissions made by respondent herein are for  
6 purposes of this proceeding, for any other disciplinary  
7 proceedings by the Division, and for any petition for  
8 reinstatement, reduction of penalty, or application for  
9 relicensure, and shall have no force or effect in any other case  
10 or proceeding.

11           7. It is understood by respondent that, in deciding  
12 whether to adopt this stipulation, the Division may receive oral  
13 and written communications from its staff and the Attorney  
14 General's office. Communications pursuant to this paragraph  
15 shall not disqualify the Division or other persons from future  
16 participation in this or any other matter affecting respondent.  
17 In the event this settlement is not adopted by the Division, the  
18 stipulation will not become effective and may not be used for any  
19 purpose, except for this paragraph, which shall remain in effect.

20           8. In consideration of the foregoing admissions and  
21 findings, the parties agree that the Division may, without  
22 further notice of formal proceeding, issue and enter an Order as  
23 follows:

24                               ORDER

25           A. IT IS HEREBY ORDERED that Physician's And Surgeon's  
26 number A 22252 issued to Stephen Proffitt, M.D. is revoked.  
27 However, the revocation is stayed and respondent is placed on

1 probation for five (5) years on the terms and conditions set  
2 forth below. Within 15 days after the effective date of this  
3 decision, respondent shall provide the Division, or its designee,  
4 proof of service that respondent has served a true copy of this  
5 decision on the Chief of Staff or the Chief Executive Officer at  
6 every hospital where privileges or membership are extended to  
7 respondent or where respondent is employed to practice medicine  
8 and on the Chief Executive Officer at every insurance carrier  
9 where malpractice insurance coverage is extended to respondent.

10           1.     **EDUCATION COURSE**

11           Within 90 days from the effective date of this  
12 decision, and on an annual basis thereafter, respondent shall  
13 submit to the Division or its designee for its prior approval an  
14 educational program or course to be designated by the Division,  
15 which shall not be less than 40 hours per year, for each year of  
16 probation. This program shall be in addition to the Continuing  
17 Medical Education requirements for re-licensure. Following the  
18 completion of each course, the Division or its designee may  
19 administer an examination to test respondent's knowledge of the  
20 course. Respondent shall provide proof of attendance for 65  
21 hours of continuing medical education of which 40 hours were in  
22 satisfaction of this condition and were approved in advance by  
23 the Division or its designee.

24           2.     **ETHICS COURSE**

25           Within 60 days of the effective date of this decision,  
26 respondent shall enroll in a course in Ethics approved in advance  
27 by the Division or its designee, and shall successfully complete

1 the course during the first year of probation.

2                   3.     **ORAL CLINICAL OR WRITTEN EXAM**

3                   Respondent shall take and pass an oral clinical exam on  
4 ENT treatment of children and infants. The clinical exam shall  
5 be administered by the Division, or its designee. This  
6 examination shall be taken within 90 days after the effective  
7 date of this decision. If respondent fails the first  
8 examination, respondent shall be allowed to take and  
9 pass a second examination, which may consist of a written as well  
10 as an oral examination. The waiting period between the first and  
11 second examinations shall be at least three months. If  
12 respondent fails to pass the first and second examinations,  
13 respondent may take a third and final examination after waiting a  
14 period of one year. Failure to pass the oral clinical  
15 examination within 18 months after the effective date of this  
16 decision shall constitute a violation of probation. The  
17 respondent shall pay the costs of all examinations.

18                   If respondent fails to pass the first examination,  
19 respondent shall be suspended from the practice of medicine until  
20 a repeat examination has been successfully passed, as evidenced  
21 by written notice to respondent from the Division or its  
22 designee.

23                   2.     **MONITORING**

24                   Within 30 days of the effective date of this decision,  
25 respondent shall submit to the Division or its designee for its  
26 approval a plan of practice in which respondent's practice shall  
27 be monitored by another physician in respondent's field of

1 practice, who shall provide periodic reports to the Division or  
2 its designee. If the monitor resigns or is no longer available,  
3 respondent shall, within 15 days, move to have a new monitor  
4 appointed, through nomination by respondent and approval by the  
5 Division or its designee.

6           3.     **OBEY ALL LAWS**

7           Respondent shall obey all federal, state and local  
8 laws, all rules governing the practice of medicine in California,  
9 and remain in full compliance with any court ordered criminal  
10 probation, payments and other orders.

11           4.     **QUARTERLY REPORTS**

12           Respondent shall submit quarterly declarations under  
13 penalty of perjury on forms provided by the Division, stating  
14 whether there has been compliance with all the conditions of  
15 probation.

16           5.     **PROBATION SURVEILLANCE PROGRAM COMPLIANCE**

17 Respondent shall comply with the Division's probation  
18 surveillance program. Respondent shall, at all times, keep the  
19 Division informed of his or her addresses of business and  
20 residence which shall both serve as addresses of record. Changes  
21 of such addresses shall be immediately communicated in writing to  
22 the Division. Under no circumstances shall a post office box  
23 serve as an address of record.

24           Respondent shall also immediately inform the Division,  
25 in writing, of any travel to any areas outside the jurisdiction  
26 of California which lasts, or is contemplated to last, more than  
27 thirty (30) days.

1                   6.     **INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS**  
2                             **DESIGNATED PHYSICIAN(S)**

3                   Respondent shall appear in person for interviews with  
4 the Division, its designee or its designated physician(s) upon  
5 request at various intervals and with reasonable notice.

6                   7.     **TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR**  
7                             **IN-STATE NON-PRACTICE**

8                   In the event respondent should leave California to  
9 reside or to practice outside the State or for any reason should  
10 respondent stop practicing medicine in California, respondent  
11 shall notify the Division or its designee in writing within ten  
12 days of the dates of departure and return or the dates of non-  
13 practice within California. Non-practice is defined as any  
14 period of time exceeding thirty days in which respondent is not  
15 engaging in any activities defined in Sections 2051 and 2052 of  
16 the Business and Professions Code. All time spent in an  
17 intensive training program approved by the Division or its  
18 designee shall be considered as time spent in the practice of  
19 medicine. Periods of temporary or permanent residence or  
20 practice outside California or of non-practice within California,  
21 as defined in this condition, will not apply to the reduction of  
the probationary period.

22                   8.     **COMPLETION OF PROBATION**

23                   Upon successful completion of probation, respondent's  
24 certificate shall be fully restored.

25                   9.     **VIOLATION OF PROBATION**

26                   If respondent violates probation in any respect, the  
27 Division, after giving respondent notice and the opportunity to



1 be heard, may revoke probation and carry out the disciplinary  
2 order that was stayed. If an accusation or petition to revoke  
3 probation is filed against respondent during probation, the  
4 Division shall have continuing jurisdiction until the matter is  
5 final, and the period of probation shall be extended until the  
6 matter is final.

7           10.    **COST RECOVERY**

8           The respondent is hereby ordered to reimburse the  
9 Division the amount of \$7,000 within 90 days from the effective  
10 date of this decision for its investigative and prosecution  
11 costs. Failure to reimburse the Division's cost of its  
12 investigation and prosecution shall constitute a violation of the  
13 probation order, unless the Division agrees in writing to payment  
14 by an installment plan because of financial hardship. The filing  
15 of bankruptcy by the respondent shall not relieve the respondent  
16 of his responsibility to reimburse the Division for its  
17 investigative and prosecution costs.

18           11.    **PROBATION COSTS**

19           Respondent shall pay the costs associated with  
20 probation monitoring each and every year of probation which is  
21 currently set at \$2,304.00, but may be adjusted on an annual  
22 basis. Such costs shall be payable to the Division at the  
23 beginning of each calendar year. Failure to pay costs within 30  
24 days of the due date shall constitute a violation of probation.

25           12.    **LICENSE SURRENDER**

26           Following the effective date of this decision, if  
27 respondent ceases practicing due to retirement, health reasons or

1 is otherwise unable to satisfy the terms and conditions of  
2 probation, respondent may voluntarily tender his certificate to  
3 the Board. The Division reserves the right to evaluate the  
4 respondent's request and to exercise its discretion whether to  
5 grant the request, or to take any other action deemed appropriate  
6 and reasonable under the circumstances. Upon formal acceptance  
7 of the tendered license, respondent will no longer be subject to  
8 terms and conditions of probation.

9 13. The within stipulation shall be subject to the  
10 approval of the Division. If the Division fails to adopt this  
11 stipulation as its Order, the stipulation shall be of no force or  
12 effect for either party.

13 ACCEPTANCE

14 I have carefully read and fully understand the  
15 stipulation and order set forth above. I have discussed the  
16 terms and conditions set forth in the stipulation and order with  
17 my attorney Theodore A. Cohen, Esq. I understand that in signing  
18 this stipulation I am waiving my right to a hearing on the  
19 charges set forth in the Accusation on file in this matter. I  
20 further understand that in signing this stipulation the Division  
21 may enter the foregoing order placing certain requirements,  
22 restrictions and limitations on my right to practice medicine in  
23 the State of California.

24 DATED: Feb 5, 1997

25   
26 \_\_\_\_\_  
27 STEPHEN PROFFITT, M.D.  
Respondent

ENDORSEMENT

The foregoing Stipulation in Settlement, Decision and Order is hereby respectfully submitted for the consideration of the Division of Medical Quality of the Medical Board of California.

DATED: Feb. 14, 1997

DANIEL E. LUNGREN, Attorney General  
of the State of California



SAMUEL K. HAMMOND  
Deputy Attorney General

Attorneys for Complainant

DATED: \_\_\_\_\_



THEODORE A. COHEN  
Attorney for Respondent

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# **ATTACHMENT “A”**

1 DANIEL E. LUNGREN, Attorney General  
of the State of California  
2 SAMUEL K. HAMMOND, ,  
Deputy Attorney General, State Bar No. 141135  
3 Department of Justice  
110 West A Street, Suite 1100  
4 Post Office Box 85266  
San Diego, California 92186-5266  
5 Telephone: (619) 645-2083  
6 Attorneys for Complainant  
7  
8

9 **BEFORE THE**  
10 **DIVISION OF MEDICAL QUALITY**  
**MEDICAL BOARD OF CALIFORNIA**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation ) NO. 04-92-21007  
12 Against: )  
STEPHEN D. PROFFITT, M.D. ) A C C U S A T I O N  
13 P. O. Box 9828 )  
Fountain Valley, CA 92728 )  
14 Physician's and Surgeon's )  
15 Certificate No. A 22252 )  
Respondent. )  
16

17 Complainant Ronald Joseph, who as cause for  
18 disciplinary action, alleges:

19 PARTIES

20 1. Complainant is the Executive Director of the  
21 Medical Board of California ("Board") and makes and files this  
22 accusation solely in his official capacity.

23 License Status

24 2. On or about September 30, 1966, Physician's and  
25 Surgeon's Certificate No. A 22252 was issued by the Board to  
26 Stephen D. Proffitt, M.D. ("respondent"); and at all times

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1 relevant herein, said physician's and surgeon's certificate was,  
2 and currently is, in full force and effect.

3 JURISDICTION

4 3. This Accusation is brought before the Division of  
5 Medical Quality of the Medical Board of California, Department of  
6 Consumer Affairs (hereinafter the "Division"), under the  
7 authority of the following sections of the California Business  
8 and Professions Code ("Code"):

9 A. Section 2227 provides that the Division may  
10 revoke, suspend for a period not to exceed one year, or  
11 place on probation, the license of any licensee who has been  
12 found guilty under the Medical Practice Act.

13 B. Section 2234 provides that unprofessional conduct  
14 includes, but is not limited to, the following:

15 (b) Gross negligence.

16 (c) Repeated negligent acts.

17 C. Section 725 of the Code provides in pertinent  
18 part, that repeated acts of clearly excessive use of  
19 diagnostic procedures, or repeated acts of clearly excessive  
20 use of diagnostic or treatment facilities as determined by  
21 the community is unprofessional conduct.

22 D. Section 125.3 of the Code provides, in part,  
23 that the Board may request the administrative law judge to  
24 direct any licensee found to have committed a violation or  
25 violations of the licensing act, to pay the Board a sum not  
26 to exceed the reasonable costs of the investigation and  
27 enforcement of the case.



1 c. On or about September 24, 1991,  
2 respondent saw this patient again. Respondent did not  
3 generate any office notes or charts for the patient on  
4 this visit. Respondent diagnosis was "acute drainage  
5 from the right ear." Respondent made no attempt to  
6 treat this problem with medication.

7 d. On or about September 27, 1991,  
8 respondent performed surgery on the patient. The  
9 surgery involved "exploratory tympanotomy on the right  
10 side with myringoplasty and eustachian cannula." After  
11 this surgery, the patient made one more visit to  
12 respondent's offices. Respondent did not generate any  
13 office notes or charts for this visit.

14 SECOND CAUSE FOR DISCIPLINE

15 (Gross Negligence)

16 5. Respondent Stephen Proffitt, M.D. is subject to  
17 disciplinary action under section 2234(b) of the Code in his care  
18 and treatment of his patient Carlos G. as follows:

19 A. Respondent failed to maintain a proper medical  
20 record of all the visits this patient made to his  
21 offices.

22 B. Respondent made no effort to treat this 14-  
23 month-old patient with medication before performing the  
24 surgeries.

25 C. Respondent performed myringoplasty on a 14-  
26 month-old infant on two separate occasions.

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1 D. On July 12, 1991, respondent performed a  
2 myringoplasty on the left ear and also performed  
3 "myringotomy with tube" on the same ear.

4 E. Respondent performed "bilateral modified  
5 Wigand sinusotomies" on a 14-month-old infant.

6 F. Respondent performed ligation of the ethmoid  
7 arteries on this 14-month-old patient.

8 THIRD CAUSE FOR DISCIPLINE

9 (Repeated Negligent Acts)

10 6. Respondent Stephen Proffitt, M.D. is further  
11 subject to disciplinary action under section 2234(c) of the Code  
12 in his care and treatment of his patient Carlos G. as follows:

13 A. Respondent failed to describe the patient's  
14 history relating to the patient's problems and also  
15 failed to describe the status of the patient's  
16 eardrums.

17 B. Respondent utilized numerous and unnecessary  
18 diagnostic tests in his treatment of this patient.

19 C. Respondent performed rhinomanometry on this  
20 14-month-old patient.

21 FOURTH CAUSE FOR DISCIPLINE

22 (Facts pertaining to patient Cynthia E.)

23 7. Respondent Stephen Proffitt, M.D. is further  
24 subject to disciplinary action under sections 2234(b), 2234(c)  
25 and 725 of the Code in his care and treatment of his patient  
26 Cynthia E. as follows:

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1 a. On or about July 23, 1992, this 9-year-  
2 old patient was referred to respondent by her primary  
3 care physician. The patient's complaint was ear and  
4 throat infection. Respondent did not generate any  
5 office notes or charts for this patient on this visit.  
6 Respondent performed several audiometric testing  
7 including, Medical Interpretation, Combined Audiometry,  
8 Tympanometry, Fisbula Test, Acoustic Reflex Testing,  
9 Tinnitus, Eustachian Tube Function Test and Stenger  
10 Testing. There is no justification for all these  
11 tests. Respondent's diagnosis was rhinitis  
12 rhinosinusitis and otitis media.

13 b. This patient made another visit on or  
14 about July 30, 1992.<sup>2</sup> On this visit respondent  
15 performed nasal studies. Respondent did not generate  
16 any charts or notes for this visit.

17 FIFTH CAUSE FOR DISCIPLINE

18 (Gross Negligence)

19 8. Respondent Stephen Proffitt, M.D. is further  
20 subject to disciplinary action under section 2234(b) of the Code  
21 in his care and treatment of his patient Cynthia E. as follows:

22 A. Respondent failed to maintain a proper  
23 medical record of all the visits this patient made to  
24 his offices.

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27  
2. Respondent's insurance claim forms indicate he saw  
this patient on this date.

1 SIXTH CAUSE FOR DISCIPLINE

2 (Repeated Negligent Acts)

3 9. Respondent Stephen Proffitt, M.D. is further  
4 subject to disciplinary action under section 2234(c) of the Code  
5 in his care and treatment of his patient Cynthia E. as follows:

6 A. Respondent failed to describe the patient's  
7 history relating to the patient's problems and also  
8 failed to describe the status of the patient's eardrums  
9 or nasal cavity.

10 B. Respondent utilized numerous and unnecessary  
11 diagnostic tests in his treatment of this patient.

12 SEVENTH CAUSE FOR DISCIPLINE

13 (Facts pertaining to patient Jose D.)

14 10. Respondent Stephen Proffitt, M.D. is further  
15 subject to disciplinary action under sections 2234(b), 2234(c)  
16 and 725 of the Code in his care and treatment of his patient  
17 Jose D. The circumstances are as follows:

18 a. On or about November 11, 1991, this  
19 11-year-old patient was referred to respondent by the  
20 patient's primary care physician. The complaint was  
21 perforation of the right eardrum. Respondent did not  
22 generate any office notes or charts for this patient on  
23 this visit. Respondent performed several audiometric  
24 testing including, Binocular Micro Examination of the  
25 Ears, Medical Interpretation, Combined Audiometry,  
26 Tympanometry, Fistula Test, Acoustic Reflex Testing

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1 and Tinnitus. There is no justification for all  
2 these tests.

3 b. Respondent's diagnosis was rhinitis  
4 rhinosinusitis, otitis media, adenoid tonsillitis with right  
5 tympanic membrane perforation. Respondent made no attempt  
6 to treat this patient with medication.

7 c. According to the respondent's insurance  
8 billing records, this patient made a follow-up visit on  
9 or about December 5, 1991. On this visit respondent  
10 performed a Nasal Study and Sinus Illumination. There  
11 was no justification for these tests. Respondent did  
12 not generate any records or charts for the patient on  
13 this visit.

14 d. On December 6, 1991, respondent  
15 performed surgery on the patient. The surgery involved  
16 "right tympanotomy with attic myringoplasty",  
17 "bilateral Wigand sinusotomies" and "turbinate  
18 reduction".

19 EIGHT CAUSE FOR DISCIPLINE

20 (Gross Negligence)

21 11. Respondent Stephen Proffitt, M.D. is further  
22 subject to disciplinary action under section 2234(b) of the Code  
23 in his care and treatment of his patient Jose D. as follows:

24 A. Respondent failed to maintain a proper  
25 medical record of all the visits this patient made to  
26 his offices.

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1 NINTH CAUSE FOR DISCIPLINE

2 (Repeated Negligent Acts)

3 12. Respondent Stephen Proffitt, M.D. is further  
4 subject to disciplinary action under section 2234(c) of the Code  
5 in his care and treatment of his patient Jose D. as follows:

6 A. Respondent failed to describe the patient's  
7 history relating to the patient's problems and also  
8 failed to describe the status of the patient's eardrums  
9 or nasal cavity.

10 B. Respondent failed to treat the patient with  
11 medication before performing the surgeries.

12 C. Respondent utilized numerous and unnecessary  
13 diagnostic tests in his treatment of this patient.

14 TENTH CAUSE FOR DISCIPLINE

15 (Facts pertaining to patient Roberto D.)

16 13. Respondent Stephen Proffitt, M.D. is further  
17 subject to disciplinary action under sections 2234(b), 2234(c)  
18 and 725 of the Code in his care and treatment of his patient  
19 Roberto D. The circumstances are as follows:

20 a. On or about January 17, 1991, this  
21 patient first consulted with respondent.<sup>3/</sup> Respondent  
22 did not generate any charts or notes on this patient.  
23 There is no documentation of the patient's history or  
24 any physical examination performed.

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26  
27 3. Respondent's insurance billing records indicate he  
first saw this patient on this date.

1                   b. On or about February 22, 1991, respondent  
2 diagnosed the patient with rhinitis rhinosinusitis and  
3 epistaxis. There is no documentation of the basis for  
4 this diagnosis. On this same date, respondent  
5 performed surgery on the patient. The surgery involved  
6 "bilateral Wigand sinusotomies, turbinate reduction and  
7 septal reconstruction.

8                   c. On or about March 7, 1991, the patient made  
9 another visit to respondent's offices. Respondent did not  
10 generate any charts or notes for the patient on this visit.  
11 On this date, respondent performed a series of tests  
12 including Medical Interpretation, Echo Head and Sinus,  
13 Combined Audiometry, Tinnitus and Impedance Testing. There  
14 is no justification for these tests. Respondent diagnosis  
15 was otitis media and acute sinusitis.

16                   d. On or about May 2, 1991, the patient made  
17 another visit to respondent's offices. Respondent did not  
18 generate any charts or *Notes* for the patient on this visit.  
19 On this visit respondent performed a series of tests  
20 including Medical Interpretation, Echo Head and Neck,  
21 Fistula Test, Combined Audiometry, Tympanometry, Tone Decay  
22 Test and Tinnitus. There is no justification for all these  
23 tests. Respondent diagnosis was combined sensorineural  
24 hearing loss and sinusitis.

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1 ELEVEN CAUSE FOR DISCIPLINE

2 (Gross negligence)

3 14. Respondent Stephen Proffitt, M.D. is further  
4 subject to disciplinary action under section 2234(b) of the Code  
5 in his care and treatment of his patient Roberto D. as follows:

6 A. Respondent failed to maintain a proper medical  
7 record of all the visits this patient made to his offices.

8 B. Respondent made no effort to treat this patient  
9 with medication before performing the surgeries on the  
10 patient.

11 TWELFTH CAUSE FOR DISCIPLINE

12 (Repeated Negligent Acts)

13 15. Respondent Stephen Proffitt, M.D. is further  
14 subject to disciplinary action under section 2234(c) of the Code  
15 in his care and treatment of his patient Roberto D. as follows:

16 A. Respondent failed to describe the patient's  
17 history relating to the patient's problems or any  
18 physical examination performed.

19 B. Respondent utilized numerous and unnecessary  
20 diagnostic tests in his treatment of this patient.

21 THIRTEENTH CAUSE FOR DISCIPLINE

22 (Facts pertaining to patient Marisela U.)

23 16. Respondent Stephen Proffitt, M.D. is further  
24 subject to disciplinary action under sections 2234(b), 2234(c)  
25 and 725 of the Code in his care and treatment of his patient  
26 Marisela U. The circumstances are as follows:

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1 a. On or about May 4, 1992, this patient went to  
2 respondent's office for ear testing. Respondent did not  
3 generate any notes or charts for this patient. Respondent  
4 performed several tests including medical interpretation,  
5 Echo Soft Tissue-Head & Neck, Combined Audiometry,  
6 Tympanometry, Acoustic Reflex Testing, Tinnitus and Stenger  
7 Testing. There is no justification for all these tests.

8 FOURTEENTH CAUSE FOR DISCIPLINE

9 (Gross negligence)

10 17. Respondent Stephen Proffitt, M.D. is further  
11 subject to disciplinary action under section 2234(b) of the Code  
12 in his care and treatment of his patient Marisela U. as follows:

13 A. Respondent failed to maintain a proper  
14 medical record of the visit this patient made to his  
15 offices.

16 FIFTEENTH CAUSE FOR DISCIPLINE

17 (Repeated Negligent Acts)

18 18. Respondent Stephen Proffitt, M.D. is further  
19 subject to disciplinary action under section 2234(c) of the Code  
20 in his care and treatment of his patient Marisela U. as follows:

21 A. Respondent failed to describe the patient's  
22 history relating to the patient's problems or any  
23 physical examination performed.

24 B. Respondent utilized numerous and unnecessary  
25 diagnostic tests in his treatment of this patient.

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1 SIXTEENTH CAUSE FOR DISCIPLINE

2 (Repeated acts of clearly excessive use of diagnostic tests.)

3 19. Respondent Stephen Proffitt, M.D. is further  
4 subject to disciplinary action on the ground of unprofessional  
5 conduct under section 2234 of the Code as defined in section 725  
6 of the Code in as follows:

7 A. Paragraphs 4(a)-4(d), 7(a)-7(b), 10(a)-10(d),  
8 13(a)-13(d), 16(a), above, are incorporated by  
9 reference and realleged as if fully set forth.

10 PRAYER

11 WHEREFORE, complainant requests that the Division hold  
12 a hearing on the matters alleged herein, and that following said  
13 hearing, the Division issue a decision:

- 14 1. Revoking or suspending Physician's and Surgeon's  
15 Certificate No. A 22252, heretofore issued to  
16 respondent Stephen D. Proffitt, M.D.;
- 17 2. Directing respondent Stephen D. Proffitt, M.D. to  
18 pay to the Board a reasonable sum for its  
19 investigative and enforcement costs of this  
20 action; and

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1 3. Taking such other and further action as the  
2 Division deems appropriate to protect the public  
3 health, safety and welfare.

4 DATED: MAY 2, 1996

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6  
7 R. J. Joseph

8 Ronald Joseph  
9 Executive Director  
10 Medical Board of California  
11 Department of Consumer Affairs  
12 State of California

13 Complainant

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